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Mark G. Knedeisen, Esq.  
Kirkpatrick & Oliver Building  
Henry W. Oliver Building  
535 Smithfield Street  
Pittsburgh, PA 15222-2312

EXAMINER

HO, THOMAS M

ART UNIT

PAPER NUMBER

2134

DATE MAILED: 02/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/068,759

Applicant(s)

DIACAKIS ET AL.

Examiner

Thomas M. Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6,8-13,15-20,24-34 and 41-43 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-6,8-13,15-20,24-34,42 and 43 is/are rejected.  
7) ☒ Claim(s) 41 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date No. 10, 11, 22.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☒ Other: IDS, 1/23/06.

### **DETAILED ACTION**

1. 1-6, 8-13, 15-20, 24-43, 41-43 are pending.

#### ***Claim Objections***

2. Claim 41 is objected to as being dependent upon a rejected claim, but would be allowable if written in independent form.

#### ***Response to Arguments***

3. Applicant's arguments have been fully considered, but are moot in view of the new grounds of rejection.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-6, 8-13, 15-20, 24-43, 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over mIRC as disclosed by "IRC FAQ" and Windows 98 as disclosed by "Windows 98: One Step at a Time", 1998, Brian Underdahl, pages 307-308.

In reference to claim 1:

“IRC FAQ” and “Windows 98: One Step at a Time”, 1998, Brian Underdahl, pages 307-308 discloses a method for communicating communication network availability information regarding an individual to at least a first person and a second person, the method, comprising:

- Detecting whether the individual is present on at least one communication, where the individual is detected whether he or she is on the network either by using a WHOIS command or NOTIFY (“/WHOIS” command”, page 8) & (“/NOTIFY” Command, page 10)
- Determining availability of the individual, where the availability will be determined each access level, such as determining whether the user is active or away. (“/WHOIS” command”, page 8) & (“/NOTIFY” Command, page 10)
- Publishing via the network a first availability profile for the individual associated with a first access level of the individual to the first person, where the information is published to the user who makes request through the commands (“/WHOIS” command”, page 8) & (“/NOTIFY” Command, page 10) and where the information is still further printed in the chatroom, where users are depicted with their access levels depending if they are Ops or “voiced” (page 16)
- Filtering for the availability of the individual when it is detected that the individual is no longer present on the communication network. (“/WHOIS” command”, page 8) & (“/NOTIFY” Command, page 10) the availability is still further “filtered” when a person

has quit and the information about the availability of that user is changed. (page 14, netsplit) and (“/QUIT” command, page 8)

“IRC FAQ” fails to explicitly disclose a method comprising:

- Publishing via the network a second availability profile associated with a second access level of the individual to the second person,
- Wherein the first and second availability profiles respectively indicate different ways in which the first person and the second person may access the individual, and wherein the first person views the first availability profile before contacting the individual and wherein the second person views the second availability profile before contacting the individual;

However, IRC FAQ illustrates a client for windows. For example, page 1 of IRC FAQ has a headline that reads “Introduction to IRC for people using Windows”

The Windows 98 system is a system where multiple programs may be opened simultaneously. For example, “Windows 98: One Step at a Time”, 1998, Brian Underdahl, pages 307-308 discloses that several programs may be opened at the same time. For example, a person running windows may open two copies of Microsoft notepad, or two copies of Internet Explorer and have a plurality of windows, display a plurality of websites.

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Similarly, one can open multiple clients or instances with one mIRC session connected one server, for example, DalNET, and another mIRC session connected with another server, for example EFNET, and chat with people or friends that reside on different servers simultaneously.

IRC FAQ and Windows 98 discloses:

- Publishing via the network a second availability profile associated with a second access level of the individual to the second person, where the second availability profile is a different availability information with respect to the second server connected to, where the information is published to the user who makes request through the commands (“/WHOIS” command”, page 8) & (“/NOTIFY” Command, page 10) and where the information is still further printed in the chatroom, where users are depicted with their access levels depending if they are Ops or “voiced” (page 16).
- Wherein the first and second availability profiles respectively indicate different ways in which the first person and the second person may access the individual, and wherein the first person views the first availability profile before contacting the individual and wherein the second person views the second availability profile before contacting the individual, where the first and second availability profiles are different profiles because they are on different chat servers, and it allows a first user to connect with the individual using one chat server, while it allows a second person to connect with the individual by going through a second chat server.

It would have been obvious to one of ordinary skill in the art at the time of invention to open multiple instances of mIRC and connect with one chat server, and open another instance of mIRC to connect with a second chat server in order to participate in several areas of discussion simultaneously.

In reference to claim 2:

“IRC FAQ” discloses the method of claim 1, wherein detecting whether the individual is present is performed after determining availability, where after a user determines someone is around, they can use the WHOIS command to detect if the individual is present (“/WHOIS” command”)

In reference to claim 3:

“IRC FAQ” discloses the method of claim 1, wherein detecting whether the individual is present is performed prior to determining availability, where before a user determines if the individual is present, the individual can be placed in a notify list which will detect for the present user.  
 (“/NOTIFY” Command)

In reference to claim 4:

“IRC FAQ” discloses the method of claim 1, wherein:

- Publishing includes publishing an address for the individual for the communication network; (“/WHOIS” command”, page 8) & (“/NOTIFY” Command, page 10)

- Filtering includes ceasing to publish the address when it is detected that the individual is no longer present on the communication network. (“/WHOIS” command”, page 8) & (“/NOTIFY” Command, page 10)

In reference to claim 5:

“IRC FAQ” discloses the method of claim 4, wherein detecting includes detecting whether the individual is present on a communication network selected from the group consisting of a public switched telephone network, a computer network, and a wireless communication network (“/WHOIS” command”) where the WHOIS command determines whether the user is on the IRC computer network.

In reference to claim 6:

“IRC FAQ” discloses the method of claim 5, further comprising retrieving the first and second profiles from a database from a database from a database before publishing the first and second profiles, where the information is inherently retrieved before it is printed to the screen (“/WHOIS” command”)

In reference to claim 7:

“IRC FAQ” discloses the method of claim 6, further comprising:

- Retrieving the second profile for the individual based on an input regarding a change in [the] situation of the individual (“/WHOIS” command”)



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- Determining updated availability of the individual for each access level of the second profile; (“/WHOIS” command”)
- Publishing the updated availability of the individual to the subscriber based on the access level of the subscriber and the presence information. (“/WHOIS” command”)

In reference to claim 13:

The method of claim 12, further comprising retrieving the profile of the individual prior to determining availability of the individual.

Claims 8-12 are substantially similar to claims 1-5 and are rejected for the same reasons, respectively.

Claim 38 is rejected for the same reasons as claim 2.

Claim 37 is rejected for the same reasons as claim 3.

Claim 17, 24 are rejected for the same reasons as claim 4.

Claim 18, 25 are rejected for the same reasons as claim 5.

Claims 15, 16, 19, 22, 23, 30, 31, 33, 35, 36 are rejected for the same reasons as claim 1.

Claims 20, 21 are rejected for the same reasons as claim 7.

Claim 39 is rejected for the same reasons as claim 2.

In reference to claim 26:

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“IRC FAQ” fails to disclose the presence and availability management server of claim 24, wherein the presence detection engine is in communication with an SS7 network of a public switched telephone network.

SS7 as understood in the art is *Signalling System #7* (SS7), a set of digital-telephony protocols that were first defined by ITU-T during 1981 in ITU-T's Q.7XX-series recommendations.

Signaling System #7 is used to set up the vast majority of telephone calls in the publicly-switched telephone networks (PSTNs) operated within industrialized nations. SS7 negotiates routes for telephone calls via packets of consecutive zeros and ones, arranged in multiples of eight, called octets. It is usually abbreviated to **SS7**. In some European countries, specifically the United Kingdom, it is sometimes called **C7**(CCITT number 7) and is also known as **number 7** and **CCIS7**. (ITU-T was formerly known as CCITT.)

As far as the Examiner can determine, such technology is used in the vast majority of communications for PSTNs. The Applicant is claiming a more specific detail, however, this detail appears to be widely used in telephonic communications.

Just as accessing IRC and the Internet, is widely known to be performed through a telephone network, so too would the use of prevalent protocols and messaging systems of common usage in telephonic communications be obvious when accessing the Internet through telephonic communications. The applicant's claim would appear to amount to having a particular Internet

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client or server be in communication with another entity over the Internet that happens to be connected to the Internet using a telephone service.

It would have been obvious to one of ordinary skill in the art to have the presence detection engine to be in communication with an SS7 network of a PSTN, because PSTN is widely used as the hardware basis for Internet communications.

In reference to claim 27:

“IRC FAQ” fails to disclose the presence and availability management server of claim 24, wherein the presence detection engine is in communication with a home location register of a wireless telephone network.

The Examiner notes that a home location register in accordance with a wireless telephone network, as understood in the art is a system through which a wireless client can connect to have access to the greater network. For example, a wireless handheld, in order to access the internet or call someone else would need to be processed or authenticated through a home location register first.

IRC is performed through the Internet.

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It would have been obvious to one of ordinary skill in the art at the time of invention to connect to IRC using a wireless telephone network, and thereby use a home location register in order to access the IRC chat through a more portable means.

In reference to claim 28:

“IRC FAQ” discloses the presence and availability management server of claim 24, wherein the presence detection engine is in communication with a short messaging server center. (“/MSG, /QUERY. /NOTICE”, pages 9-10)

In reference to claim 29:

“IRC FAQ” discloses the presence and availability management server of claim 24, wherein the presence detection engine is in communication with a gateway GPRS support node (GGSN).

In reference to claim 32:

“IRC FAQ” discloses the presence and availability management server of claim 31, wherein the server includes a database and wherein the profile of the individual is stored in the database.

(page 12, Item 33, page 13, Item 38 “registration of nickname by nickserv”)

The examiner takes official notice that storing registered user information in a database was well known at the time of invention. It would have been obvious to one of ordinary skill in the art to user a database to store user profiles in order to provide a common storage place where such information could be easily accessed.

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In reference to claim 34:

“IRC FAQ” discloses the presence and availability server of claim 39, wherein a plurality of profiles is stored in the database, each profile corresponding to a different situation for the individual. (page 12, Item 33, page 13, Item 38 “registration of nickname by nickserv”)

It would have been obvious to one of ordinary skill in the art to use a database to store user profiles in order to provide a common storage place where such information could be easily accessed.

Claim 40 is rejected for the same reasons as claim 34.

In reference to claim 42:

“IRC FAQ” and “Windows 98: One Step at a Time”, 1998, Brian Underdahl, pages 307-308 discloses the method of claim 1 wherein the first profile is viewed by the first person in the first person’s contact list and the second profile is viewed in the second person’s contact list, where the first profile is the WHOIS profile of the individual with respect to one server, and the WHOIS profile of the individual with respect to the second server.

In reference to claim 43:

“IRC FAQ” and “Windows 98: One Step at a Time”, 1998, Brian Underdahl, pages 307-308 discloses the method of claim 1 wherein the first and second profiles are viewed in the individual’s contact list, where the first and second profiles may be viewed in the individuals notify and chatroom availability list for the first server and second server connected to.

***Conclusion***

6. The following prior art is made of record:

- US patent 6757365 discloses a method of instant messaging over a telephone interface.

7. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of the final action and the advisory action is not mailed under after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension pursuant to 37 CFR 1.136(A) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication from the examiner should be directed to Thomas M Ho whose telephone number is (571)272-3835. The examiner can normally be reached on M-F from 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory A. Morse can be reached on (571)272-3838.

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The Examiner may also be reached through email through [Thomas.Ho6@uspto.gov](mailto:Thomas.Ho6@uspto.gov)


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)272-2100.

General Information/Receptionist Telephone: 571-272-2100 Fax: 571-273-8300

Customer Service Representative Telephone: 571-272-2100 Fax: 571-273-8300

TMH

February 5<sup>th</sup>, 2006

  
**EMMANUEL L. MOISE**  
**SUPERVISORY PATENT EXAMINER**